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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,783	10/31/2003	David S. Benco	LUTZ 2 00250	1742
48116	7590	08/12/2009		
FAY SHARPE/LUCENT				
1228 Euclid Avenue, 5th Floor				
The Halle Building				
Cleveland, OH 44115-1843				
EXAMINER				
DEAN, RAYMOND S				
ART UNIT		PAPER NUMBER		
2618				
MAIL DATE		DELIVERY MODE		
08/12/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/698,783

Applicant(s)

BENCO, DAVID S.

Examiner

RAYMOND S. DEAN

Art Unit

2618

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 7-9 and 18-23 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 10-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 10, 2009 has been entered.

Response to Arguments

2. Applicant's arguments, see pages 9 – 12 filed June 10, 2009 with respect to the rejection of the independent claims have been fully considered and are persuasive. The rejection of said claims has been withdrawn.

Claim Objections

3. Claim 10 is objected to because of the following informalities: The "validating the second mobile station" and "determining a delivery preference" steps are not tied to the mobile switching center. Examiner suggests amending the claims to show that the mobile switching center is also conducting the above steps. Appropriate correction is required. All claims that depend from Claim 10 are objected to for the same reasons set forth above.

Allowable Subject Matter

4. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to teach or render obvious the following:

the system comprising: a mobile switching center, wherein the mobile switching center comprises: a call recognition module operative to recognize a call from the first mobile station to the second mobile station as including the video data and, if the video data is present, validate the second mobile station as capable of receiving the video data and determine a delivery preference for the second mobile station based at least in part on information retrieved from at least one database, wherein a subscriber sets the delivery preference by selecting immediate delivery, delayed delivery, blocked delivery, or conditional delivery; a storage module operative to have stored therein the video data; an announcement module operative to selectively prompt, based on the delivery preference, the second mobile station if the second mobile station is validated, receive a response to the prompt from the second mobile station and selectively forward the response; and, a control module operative to store the video data in the storage module upon recognition, receive the response from the announcement module and, based on at least one of the delivery preference and the response, perform at least one of maintaining the video data in the storage module, deleting the video data from the storage module, and forwarding the video data to the second mobile station.

a mobile switching center, wherein the mobile switching center comprises: means for recognizing a call from the first mobile station to the second mobile station as including the video data; means for validating the second mobile station as capable of receiving the video data and determining a delivery preference for the second mobile station based at least in part on information retrieved from at least one database, wherein the delivery preferences include a rejection of video data, immediate delivery of video data, delayed delivery of video data and conditional delivery of video data; means for storing the video data in a storage module; means for selectively prompting the second mobile station if the second mobile station is validated; means for receiving a response to the prompt from the second mobile station; and, means for performing, based on at least one of the delivery preference and the response, at least one of maintaining the video data in the storage module, deleting the video data from the storage module, and forwarding the video data to the second mobile station.

Claims 1, 18 and their corresponding dependent claims are therefore allowed.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAYMOND S. DEAN whose telephone number is (571)272-7877. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raymond S Dean/
Examiner, Art Unit 2618
Raymond S. Dean
August 11, 2009